

Regular Session, 2013

HOUSE BILL NO. 697

BY REPRESENTATIVE JAMES

TAX/INCOME TAX: Provides for the net operating loss deduction and the tax credit for inventory taxes paid

1 AN ACT

2 To amend and reenact R.S. 47:287.86 and 6006(D)(5), relative to income tax; to provide for
3 the amount of the tax credit for local inventory taxes paid; to provide with respect
4 to the net operating loss deduction; to provide for effectiveness; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:287.86 and 6006(D)(5) are hereby amended and reenacted to read
8 as follows:

9 §287.86. Net operating loss deduction

10 A. Deduction from Louisiana net income. Except as otherwise provided,
11 there shall be allowed for the taxable year an adjustment reducing Louisiana net
12 income in an amount equal to the aggregate of:

13 ~~(1) The net operating loss carryovers to such year, plus~~

14 ~~(2) The net operating loss carrybacks to such year.~~

15 B. Net operating loss ~~carrybacks and~~ carryovers. The taxable years to which
16 a Louisiana net loss may be carried shall be:

17 ~~(1) A net operating loss carryback to each of the three taxable years~~
18 ~~preceding the taxable year of such loss, unless carryback treatment is relinquished~~
19 ~~pursuant to R.S. 47:287.86(D).~~

1 ~~(2)~~ For losses incurred for taxable years beginning before January 1984,
2 a net operating loss carryover to each of the five taxable years following the taxable
3 year of such loss. For losses incurred for taxable years beginning on or after January
4 1, 1984, a net operating loss carryover to each of the fifteen taxable years following
5 the taxable year of such loss.

6 C. Manner and amount of ~~carrybacks and~~ carryovers. The entire amount of
7 Louisiana net loss for any taxable year, hereinafter the "loss year", shall be carried
8 ~~back to the earliest of the taxable years allowed, unless an election to relinquish~~
9 ~~carryback treatment is made, in which case such loss shall be carried~~ to the earliest
10 of the taxable years allowed for carryovers. The portion of such loss which shall be
11 carried to each of the other taxable years allowed by Subsection B shall be the
12 excess, if any, of the amount of such loss over the aggregate of the Louisiana taxable
13 income for each of the prior taxable years to which such loss may be carried. For the
14 purposes of this Subsection:

15 (1) Louisiana taxable income shall not be adjusted to less than zero.

16 (2) In calculating the aggregate Louisiana taxable incomes in cases where
17 more than one loss year must be taken into account, the various net operating loss
18 carryovers ~~and carrybacks~~ to such taxable year are considered to be applied in
19 reduction of Louisiana net income in the order of the taxable years from which such
20 losses are carried over ~~or carried back~~, beginning with the loss for the earliest taxable
21 year.

22 D. ~~Election to relinquish carryback. Any taxpayer may make an election to~~
23 ~~relinquish the carryback treatment allowed and have its Louisiana net loss treated~~
24 ~~only as a carryover. Such election shall be made as prescribed by the secretary.~~

25 E. Statement with tax return. Every corporation claiming a net operating
26 loss deduction for any taxable year shall file with its return for such year a concise
27 statement setting forth the amount of the net operating loss claimed and all material
28 and pertinent facts relative thereto, including a detailed schedule showing the
29 computation of the net operating loss deduction.

1 ~~F. Adjustment dependent upon Louisiana net loss carryback. If in computing~~
2 ~~the net operating loss deduction the taxpayer is entitled to a carryback which cannot~~
3 ~~be ascertained at the time the return is due, the deduction, if any, shall be computed~~
4 ~~without regard to such carryback. When the taxpayer ascertains the correct amount~~
5 ~~of such carryback, a claim for credit or refund of the overpayment, if any, resulting~~
6 ~~from the failure to compute the deduction for the taxable year with the inclusion of~~
7 ~~such carryback may be filed within the prescriptive period, or the taxpayer may file~~
8 ~~an application for a tentative refund as provided in Subsection G.~~

9 ~~G. Tentative refund. A taxpayer may request a tentative refund resulting~~
10 ~~from the application of a net operating loss carryback in the manner and with forms~~
11 ~~prescribed by the secretary. If the tentative refund is paid, the secretary may recover~~
12 ~~any amount thereof determined not to be an overpayment through any collection~~
13 ~~remedy authorized by R.S. 47:1561 within two years from December thirty-first of~~
14 ~~the year in which the refund was paid. Any tentatively refunded amount determined~~
15 ~~not to be an overpayment shall bear interest at the rate provided in R.S. 47:1601,~~
16 ~~which shall be computed from the date the tentative refund was issued to the date~~
17 ~~payment is received by the secretary.~~

18 ~~H. Interest on refunds. Any amount actually refunded as an overpayment~~
19 ~~resulting from the application of a net operating loss carryback, tentative or~~
20 ~~otherwise, shall bear interest at the rate provided in R.S. 47:1624, which shall be~~
21 ~~computed:~~

22 ~~(1) From the latest of the following dates:~~

23 ~~(a) Ninety days after the date the request for tentative refund or claim for~~
24 ~~refund (amended return) is filed.~~

25 ~~(b) Ninety days after the due date of the loss year return without regard to~~
26 ~~extensions of time to file.~~

27 ~~(2) To the date such refund is issued by the secretary.~~

28 ~~I. E. Net operating loss carryovers.~~

(1) Notwithstanding any other provisions of this Chapter to the contrary, the acquiring corporation shall succeed to and take into account, as of the close of the day of distribution or transfer, the aggregate net operating loss carryovers of the distributors or transferor corporation as determined under this Section, subject to federal law and the limitations provided thereunder.

(2) Net operating losses generated after the effective date of a reorganization cannot be carried back to a corporation that does not survive the reorganization, unless the reorganization is a reorganization under Internal Revenue Code Section 368(a)(1)(F). For purposes of this Part, the surviving entity of a reorganization under Internal Revenue Code Section 368(a)(1)(F) is the same entity as the transferor entity, and the reorganization will be treated as a mere change in form.

* * *

§6006. Tax credits for local inventory taxes paid

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D. The credit provided in this Section shall be allowed as follows:

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(5) For inventory taxes paid to political subdivisions on or after July 1, 1996, the credit shall be ~~one hundred~~ seventy-five percent of such taxes paid.

Section 2. This Act shall become effective on January 1, 2014.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

James

HB No. 697

Abstract: Removes carryback provisions for the net operating loss deduction and reduces the tax credit for local inventory taxes paid

Present law authorizes net operating losses to be either carried back over five years or carried forward over 15 years as a deduction from state income tax.

Proposed law repeals provisions authorizing the carryback of net operating losses.

Present law authorizes a state income tax credit equal to the amount of local property taxes paid on business inventories.

Proposed law reduces the amount of the tax credit to 75% of the amount of local property taxes paid.

Effective Jan. 1, 2014.

(Amends R.S. 47:287.86 and 6006(D)(5))